

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

LORETTA MURRAY, <i>et al</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 3:04-CV-501
)	(PHILLIPS/GUYTON)
CITY OF HARRIMAN, <i>et al</i> ,)	
)	
Defendants.)	

MEMORANDUM AND OPINION

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court, and by the Order [Doc. 58] of the Honorable Thomas W. Phillips, United States District Judge, for disposition of the following motion: Plaintiffs' Motion to View the Evidence Videos [Doc. 55].

Plaintiffs' Motion to View the Evidence Video [Doc. 55], filed on November 3, 2006, appears to ask for all parties and the court to gather together to view a tape of the incident which is the subject of this action. Plaintiffs claim that the video they have been given is altered, a video from co-defendant Ken Mynatt's car exists, and suggest that the original videotape has been discarded. *See* Plaintiffs' Argument to View the Evidence Videos [Doc. 64]. Presumably, allowing all parties to view the tapes simultaneously will remedy this situation.

In response to Plaintiffs' Motion to View the Evidence Video [Doc. 55], Defendants filed a Response to Plaintiff's [sic] Motion to Ask the Court [to] Help Plaintiffs Obtain Evidence [Doc. 57] and a Response to Plaintiff's [sic] Motion to View the Evidence Videos [Doc. 62]. Both

responses rely on the same sworn affidavit of Jack Stockton [Exhibit 3 to Doc. 57, attached to Doc. 62], dated October 30, 2006. Jack Stockton (“Stockton”) stated he is the current Sheriff of Roane County. Stockton Affidavit, ¶ 3. He certified that Ken Mynatt’s car was not equipped with an in-car video system at the time of the alleged incident which resulted in this action. *Id.*, ¶ 6. He further certified that no tapes or any other evidence have been altered or destroyed. *Id.*, ¶¶ 7-9.

This Court has previously addressed the issue of the videotape. In its Order [Doc. 27], filed June 21, 2005, this Court directed Defendants to provide copies of any relevant tapes to the Plaintiffs. Defendants have presented this Court with a sworn affidavit signed by Jack Stockton stating that no tapes have been disposed of, no camera existed in Ken Mynatt’s car, and the tape given to Plaintiffs was not altered. Accordingly, as Plaintiffs have failed to produce any evidence refuting Defendants’ claim of providing all available materials in a true and accurate form, Plaintiffs’ Motion to View the Evidence Videos [Doc. 55] is **DENIED**. As such, no need exists for the parties and this Court to convene to view the evidence videos. If Plaintiffs are able to locate evidence that probable cause exists to believe Stockton’s affidavit was falsified or that a tape differing from that currently in Plaintiffs’ possession exists, then Plaintiffs have leave to re-file the present motion.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge